

REMARKS/ARGUMENTS

In the Office Action mailed on October 5, 2009, claims 1-17 are rejected. In response, claims 1, 3, 10-12, and 17 have been amended. Additionally, claim 2 has been canceled. Furthermore, new claims 18-21 have been added. Applicants hereby request reconsideration of the application in view of the amended claims, the added claims, and the below-provided remarks.

Claim Rejection under 35 U.S.C. 103

Claims 1-17 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Ohnishi (U.S. Pat. No. 6,075,567) in view of Kalluri et al. (U.S. Pat. No. 6,931,660, hereinafter “Kalluri”). As described above, claims 1, 3, 10-12, and 17 have been amended, claim 2 has been canceled, and new claims 18-21 have been added. Applicants respectfully submit that the pending claims are patentable over Ohnishi in view of Kalluri for the reasons provided below.

Independent Claim 1

Claim 1 has been amended to include all of the limitations of claim 2. Claim 2 has been canceled. Applicants respectfully assert that a *prima facie* rejection has not been established with respect to amended claim 1.

In order to establish a *prima facie* rejection of a claim under 35 U.S.C. 103, the Office Action must present a clear articulation of the reason why the claimed invention would have been obvious. MPEP 2142 (citing *KSR International Co. v. Teleflex Inc.*, 550 U.S. (2007)). The analysis must be made explicit. *Id.* Additionally, rejections based on obviousness cannot be sustained by mere conclusory statements; instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *Id.*

Here, the Office Action fails to explain why the limitations of claim 2, which are now incorporated into claim 1, would have been obvious because the Office Action does not acknowledge the actual language of now-canceled claim 2. In particular, the Office Action fails to acknowledge that now-canceled claim 2 recites “*the step of manipulating*

at least the first sub-picture comprises replacing compressed picture blocks of the first sub-picture with compressed picture blocks of a different picture without changing the control data" (emphasis added). In fact, the Office Action does not even make an assertion that the cited references might describe the indicated limitation, or that the indicated limitation might otherwise be obvious in light of the cited references because the Office Action does not specifically address the language "without changing the control data" as recited in now-canceled claim 2. Therefore, Applicants respectfully submit that the Office Action fails to establish a *prima facie* rejection for amended claim 1.

Additionally, the Office Action recognizes that Ohnishi does not teach the "manipulating ..." step of claim 1. (See page 2 of the Office Action). Kalluri is cited for teaching the "manipulating ..." step of claim 1 along with the limitations of now-canceled claim 2. (See pages 2 and 3 of the Office Action). However, Applicants respectfully assert that Kalluri does not teach that "manipulating at least the first sub-picture comprises replacing compressed picture blocks of the first sub-picture with compressed picture blocks of a different picture without changing the control data" (emphasis added), as recited in amended claim 1.

Kalluri teaches that an interactive decoder processes each slice of selected video streams to relocate each selected video stream. (See step 362 in Fig. 4B and column 11, lines 43-48 of Kalluri). Kalluri further teaches that the relocation of a selected video stream includes modifying a macroblock address increment (MBAI) variable length codeword (LVC) and/or a slice start code (SCC) of the selected video stream. (See column 10, lines 48, 56, and 57 and column 11, lines 48-50 of Kalluri). That is, Kalluri teaches that manipulating a video stream involves changing the control data (i.e. the MBAI variable LVC and/or SCC). Because Kalluri teaches that manipulating a video stream involves changing the control data, Applicants respectfully assert that Kalluri does not teach that "manipulating at least the first sub-picture comprises replacing compressed picture blocks of the first sub-picture with compressed picture blocks of a different picture without changing the control data" (emphasis added), as recited in amended claim 1.

Because Ohnishi in view of Kalluri does not teach all of the limitations of amended claim 1, Applicants respectfully assert that a *prima facie* case of obviousness has not been established with respect to amended claim 1.

Dependent Claims 3-16

Applicants note that claims 3 and 10-12 have been amended to replace the phrase “manipulating at least the first sub-picture comprise” with the phrase “manipulating at least the first sub-picture *further comprises*.” Claims 3-16 depend from and incorporate all of the limitations of independent claim 1. Applicants respectfully assert that claims 3-16 are allowable at least based on an allowable claim 1. Additionally, Applicants respectfully assert that claims 6, 13, and 14 are allowable for further reasons, as described below.

Claims 6 and 14

Claim 6 recites that “*the compressed video signal comprises a plurality of slices each slice comprising a slice header and a number of consecutive compressed picture blocks.*” Claim 14 recites that “*a given sub-picture is predictively coded and wherein all block motion vectors associated with the plurality of picture blocks within the given sub-picture are set to a same value which depends on a displacement of the given sub-picture between a picture and a reference picture.*” The Office Action recognizes that Ohnishi and Kalluri do not teach the above-identified limitations of claims 6 and 14 and the Examiner cites “Official Notice” in support of the rejections. (See pages 3 and 4 of the Office Action). In response, Applicants respectfully traverse the Official Notice taken by the Examiner.

The MPEP provides very strict guidelines to limit the availability of Official Notice. In particular, the MPEP states it is not appropriate for the Examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. MPEP 2144.03(A). The MPEP also states it is never appropriate to rely solely on “common knowledge” in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. MPEP 2144.03(A) (citing In re

Zurko, 258 F.3d at 1385 (Fed. Cir. 2001)). Furthermore, if Official Notice is taken without providing documentary evidence, the basis of the Official Notice must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge. MPEP 2144.03(B) (citing In re Soli, 317 F.2d at 946 (CCPA 1963) and In re Chevenard, 139 F.2d at 713 (CCPA 1943)).

Here, the Office Action fails to provide evidentiary support for the assertion of Official Notice. Moreover, the Office Action relies solely on the Official Notice as the principal evidence for the limitations of claims 6 and 11. No other support is provided. Therefore, the rejection based on Official Notice is improper because it relies on official notice without providing evidentiary support.

Furthermore, the Office Action fails to provide factual findings to support the rejection based on Official Notice. The Office Action merely concludes that the indicated subject matter “would have been obvious.” However, there is no discussion of the facts, if any, that the Examiner might rely on to form such conclusion. For example, with regard to claim 6, the Office Action merely concludes that the above-identified limitation of claim 6 “would have been obvious” and that “doing so would have been obvious in order to correctly determine the amount of processing time remaining.” Additionally, with regard to claim 14, the Office Action merely concludes that the above-identified limitation of claim 14 “would have been obvious” and that “doing so would have been obvious in order to maintain a consistent video quality among the different slices.” There is no other discussion of the facts upon which this conclusion is based. The MPEP is clear that factual findings must be provided in order to properly support a rejection based on Official Notice. Given that the Office Action provides no specific factual findings and no explanation of related technical and scientific reasoning, the rejection based on Official Notice is improper.

Claim 13

As described above, Applicants respectfully assert that Kalluri does not teach that *“manipulating at least the first sub-picture comprises replacing compressed picture blocks of the first sub-picture with compressed picture blocks of a different picture*

without changing the control data” (emphasis added), as recited in amended claim 1. Claim 13 recites that “*manipulating the at least first sub-picture further comprises replacing compressed picture blocks with pre-defined compressed picture blocks without modifying the control data whereby pre-determined sub-pictures can be inserted in the compressed video signal*” (emphasis added). Because Kalluri does not teach replacing compressed picture blocks of a first sub-picture with compressed picture blocks of a different picture without changing the control data as recited in amended claim 1, Applicants respectfully assert that Kalluri does not teach replacing compressed picture blocks with pre-defined compressed picture blocks without modifying the control data where pre-determined sub-pictures can be inserted in the compressed video signal as recited in claim 13. Because Ohnishi in view of Kalluri does not teach all of the limitations of claim 13, Applicants respectfully assert that claim 13 is patentable over Ohnishi in view of Kalluri.

Independent Claim 17

Claim 17 has been amended in a similar fashion to claim 1. Support for the amendment to claim 17 is found in the current Application at, for example, original claim 2. Because of the similarities between amended claim 1 and amended claim 17, Applicants respectfully assert that the above remarks with regard to amended claim 1 apply also to amended claim 17. Accordingly, Applicants respectfully assert that amended claim 17 is patentable over Ohnishi in view of Kalluri.

New Claims 18-21

Claims 18-21 have been added. Support for claim 18 is found in the current Application at, for example, original claims 1 and 6. Support for claims 19-21 is found in the current Application at, for example, original claims 1-4 and 6.

Claim 18 includes all of the limitation of claims 1 and 6, as filed on April 18, 2005. As described above, Applicants respectfully traverse the Official Notice taken by the Examiner in the Office Action with regard to claim 6. Because of the similarities between claim 18 and claim 6, Applicants respectfully assert that claim 18 is patentable over Ohnishi in view of Kalluri for the reasons provided above with regard to claim 6.

Claims 19-21 depend from and incorporate all of the limitations of independent claim 18. Applicants respectfully assert that claims 19-21 are allowable at least based on an allowable base claim 18. Additionally, Applicants respectfully assert that claim 19 includes a similar limitation to amended claim 1 and now-canceled claim 2. Because of the similarity between amended claim 1 and claim 19, Applicants respectfully assert that the remarks provided above with regard to amended claim 1 apply also to claim 19. Thus, Applicants respectfully assert that claim 19 is patentable over Ohnishi in view of Kalluri.

CONCLUSION

Applicants respectfully request reconsideration of the claims in view of the amendments and remarks made herein. A notice of allowance is earnestly solicited.

Petition is hereby made under 37 CFR 1.136(a) to extend the time for response to the Office Action of 1/5/2010 to and through 2/5/2010, comprising an extension of the shortened statutory period of one month.

At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account **50-4019** pursuant to 37 C.F.R. 1.25. Additionally, please charge any fees to Deposit Account **50-4019** under 37 C.F.R. 1.16, 1.17, 1.19, 1.20 and 1.21.

Respectfully submitted,

/mark a. wilson/

Date: January 6, 2010

Mark A. Wilson
Reg. No. 43,994

Wilson & Ham
PMB: 348
2530 Berryessa Road
San Jose, CA 95132
Phone: (925) 249-1300
Fax: (925) 249-0111